

REMARKS

The Office Action of September 19, 2006 has been received and considered. Claims 1-22 are pending. Claim 1 has been amended. Claims 9, and 11-22 have been canceled. New claims 23 and 24 have been added. Reconsideration of the application in view of the foregoing amendments and following remarks is respectfully requested. Each of the Examiner's rejections is discussed below.

Drawings

The drawings have been objected to on the grounds that the feature "the mounting member is configured to be secured to a front of a dash of a vehicle" must be shown. This rejection is respectfully traversed.

Applicant respectfully submits that an embodiment illustrating this feature is shown in the drawings as filed. Specifically, Fig. 4 of the drawings shows a mounting member (bracket 34) secured to dash 32 of a vehicle. This is supported by the description of this embodiment in the specification at page 7, paragraph 23, which states that "second end 20 of arm 18 is secured to a front of dash 32 of a vehicle by way of a mounting member such as bracket 34."

Accordingly, the rejection is improper and should be withdrawn.

Section 112

Claims 8 and 12 have been rejected under 35 U.S.C. § 112, second paragraph. This rejection is respectfully traversed.

Claim 8 has been rejected on the grounds that it is unclear how "the strain gauge can measure the force applied to the pedal, when the strain gauge is attached to the

mounting member.” Applicant respectfully points out that, as noted in the embodiment described in the specification at page 6, paragraph 20, the strain gauge “can be secured to any portion of drive-by-wire assembly 10 that is exposed to the force applied by the user’s foot.” Thus, since the pedal is attached to the mounting member, the force applied by the user’s foot can be measured by a strain gauge attached to the mounting member.

Claim 12 has been canceled.

Section 102

Claims 1-7 and 9-22 stand rejected under 35 U.S.C. § 102(b) over EP Patent No. EP 0469283 to Kolberg et al. (“Kolberg”) a translation of which is attached hereto. This rejection is respectfully traversed.

Kollberg discloses a position sensor for a gas pedal having an elastically deformable component 10 in the form of a leaf spring 11, 21, 31.

Kollberg fails to disclose or make obvious a drive-by-wire assembly having a pedal configured to retain its original shape and undergo no substantial deformation when engaged by a foot of a user, a strain gauge secured to the pedal and configured to provide an output signal based on a force applied to the pedal by a foot of a user; and an electronic control unit configured to receive the output signal from the strain gauge and provide a control signal, as required by independent claim 1.

Accordingly, the rejection is improper and should be withdrawn.

Conclusion

In view of the forgoing, applicant believes that pending claims 1-8, 10, and 23-24 are in form for allowance, and an indication to that effect is respectfully requested at this time. Please apply any charges or credits to Deposit Account No. 19-0733.

Respectfully submitted,

Date: December 18, 2006

/Gregory J. Cohan/
Gregory J. Cohan
Reg. No. 40,959
Customer No. 28316
Banner & Witcoff, Ltd.
28 State Street, 28th Floor
Boston, MA 02109
(617)-720-9600